



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

December 23, 2004

IN REPLY PLEASE

REFER TO FILE: PD-1

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**TELEGRAPH ROAD NORTH OF GARFIELD AVENUE
RECONSTRUCTION OF THE GRADE SEPARATION
UNDER THE BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY TRACKS
STATE-COUNTY AGREEMENT 68845/07R172
AMENDMENT NO. 2
SUPERVISORIAL DISTRICT 1
3 VOTES**

IT IS RECOMMENDED THAT YOUR BOARD:

Approve and instruct the Chair to sign the enclosed Amendment to the existing State-County Agreement, which extends the expiration date to December 31, 2005, for the disbursement of State funds for the reconstruction of the highway-railroad grade separation on Telegraph Road at the Burlington Northern Santa Fe Railway Company tracks in the City of Commerce. Extension of the expiration date will allow the County to pursue additional State funding toward the cost of the recently completed, County-administered grade separation reconstruction project.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On February 23, 1988, Synopsis 41, your Board adopted a Resolution authorizing Public Works to initiate proceedings with the California Public Utilities Commission and to request an allocation of State Grade Separation funds for reconstruction of the subject grade separation. Subsequently, the California Transportation Commission approved this project for construction and allocated funds from the State Grade Separation Fund to cover a portion of the project costs. Per the terms of a Cooperative

Agreement between the County, the City of Commerce, and Burlington Northern Santa Fe Railway Company (BNSF), all project costs in excess of State and Federal grant funds and BNSF contribution are to be borne by the City of Commerce.

On March 5, 1996, Synopsis 43, your Board approved the County-State Grade Separation Agreement to secure \$4,104,000, which was allocated by the California Transportation Commission for the project. On June 9, 1998, Synopsis 55, your Board approved Amendment No. 1 to extend the expiration date of this Agreement. The subject Amendment No. 2 further extends the expiration date of the Agreement to December 31, 2005. The Grade Separation Agreement provides that an additional allocation up to \$876,896 above the original allocation of \$4,104,000 can be requested upon completion of the project's final accounting.

On August 12, 2003, Synopsis 49, your Board accepted the construction contract for the project, which marked the project's completion. The County has since disputed certain BNSF charges that has resulted in BNSF filing a lawsuit against the County. Extension of the expiration date of the State-County Agreement is needed to allow additional time for resolution of the billing dispute with BNSF and, upon resolution of the dispute, will permit completion of project final accounting in order to request additional funds from the State Grade Separation Fund.

Implementation of Strategic Plan Goals

This action meets the County's Strategic Plan Goal of Fiscal Responsibility as it provides for the County to maximize State grant funding for the subject project.

FISCAL IMPACT/FINANCING

The interim final cost of the project, pending resolution of the County's dispute of BNSF project charges, is \$14,636,196 to be financed as follows:

State Grade Separation funds	\$ 4,980,896
Los Angeles-San Diego Rail Corridor Agency (FTA funds)	6,520,368
BNSF	1,739,448
City of Commerce	1,395,484
Total	<u>\$14,636,196</u>

This action has no impact on the County's General Fund nor on Public Works' budget. Any additional costs to be reimbursed to BNSF are to be financed by the City of Commerce per our Cooperative Agreement with the City dated January 20, 1998.

The Honorable Board of Supervisors
December 23, 2004
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FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Amendment No. 2 to the Agreement has been reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

The Public Resources Code provides that grade separation projects are exempt from the California Environmental Quality Act. Accordingly, on February 27, 1996, Synopsis 26, your Board made a finding that this project is categorically exempt from the California Environmental Quality Act.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Reconstruction of the existing grade separation of Telegraph Road and the BNSF railroad tracks greatly improved vehicular traffic circulation and reduced traffic congestion in the area. The railroad bridge was also widened to accommodate two additional tracks to properly serve the needs of the Commerce train station and to improve travel time for trains within the Los Angeles-San Diego Rail Corridor.

CONCLUSION

Enclosed are four originals and one County file copy of the subject Amendment No. 2 to the Agreement. Upon execution, please certify and return the originals to us together with three approved copies of this letter. The County file copy is for your files until the executed County original is returned to you at which time the County file copy should be conformed and forwarded to the Auditor-Controller.

Respectfully submitted,

DONALD L. WOLFE
Interim Director of Public Works

GAJ:dp
C050741
P:\Pdpub\Public\Fedprgms\Railroad\TELEGRAPH RD GSF AGMT AMEND NO 2.doc

Enc.

cc: Chief Administrative Office
County Counsel

GRADE SEPARATION FUND
Telegraph Road Underpass
Priority No.50, 1994-1995
GS-6075
Agreement No. 07R172
Amendment No. 2

I hereby certify upon my own personal knowledge that budgeted funds are available for this encumbrance.						
Accounting Officer						\$
Chapter	Statutes	Item	Fiscal Year	Program Code	Category	Fund Source

AGREEMENT

THIS AGREEMENT AMENDMENT, made and entered into, by and between the STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as "State", and the **County of Los Angeles**, a political subdivision of the State of California, hereinafter referred to as "County".

WITNESSETH

WHEREAS, the State and County entered into Agreement No.07R172, dated September 5th, 1995, for the reconstruction of a grade separation at Telegraph Road under the tracks of the Burlington Northern & Santa Fe Railroad, hereinafter referred to as "Project"; and

WHEREAS, said Project and disbursements were not completed by June 30, 2001, due in part to a legal dispute involving the participating railroad, which is currently in the resolution process; and

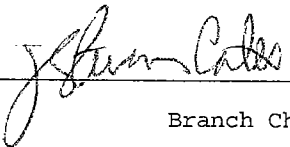
WHEREAS, the State and County hereto agree that the date for completion of final accounting and the disbursement of funds for the Project, as stated in Agreement No.07R172, should now be extended to December 31, 2005;

NOW THEREFORE, in consideration of the premises and mutual undertakings of the parties hereto, as hereinafter set forth, State and County agree as follows:

1. This Amendment No. 2 to Agreement 07R172 hereby extends the expiration date of said Agreement until December 31, 2005.
2. All other terms and conditions shall remain as stipulated in Agreement No. 07R172.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate the day and year first above written.

APPROVAL RECOMMENDED


Branch Chief

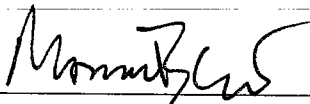
STATE OF CALIFORNIA

DEPARTMENT OF TRANSPORTATION

BY

CLEM A. BOMAR - Chief
Office of Rail Equipment
And Track Construction

APPROVED AS TO FORM



Deputy

COUNTY OF LOS ANGELES

By _____

APPROVED AS TO FORM:

OFFICE OF THE COUNTY COUNSEL

By 
Deputy

Attest _____